

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Robert J. PRUETT et al.)	Group Art Unit: 1793
)	
Application No.: 10/531,257)	Examiner: Shuangyi Abu-Ali
)	
Filed: November 18, 2005)	Confirmation No.: 4840
)	
For: FINE PLATY KAOLIN)	
COMPOSITION)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Via EFS-Web

Sir:

SUPPLEMENTAL INFORMATION
DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)(4)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b)(4), Applicant brings to the attention of the Examiner the document listed on the attached IDS Form PTO/SB/08. This Supplemental Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits for the above-referenced application following the filing of a Request for Continued Examination under § 1.114.

A copy of the listed non-patent literature document is attached.

The listed document relates to a listing of purported physical properties associated with a sample of a product previously marketed by ECC International under the trade name ALPHACOTE®. Applicant and Assignee of the present application made a bona fide attempt to establish definitive evidence as to the physical characteristics of any ALPHACOTE® product sold by Applicant or Assignee prior to December 16, 2002, the date on which U.S. provisional application no. 60/433,501 was

filed, which is the application to which the present application claims priority under 35 U.S.C. § 119(e). However, neither Applicant nor Assignee was able to establish such definitive evidence. Further, Applicant and Assignee note that the ALPHACOTE® product is no longer made or sold by Applicant or Assignee, but rather, is made by a third party successor to ECC International, the company identified on the data sheet. Neither Applicant nor Assignee has access to the records of the third party successor company.

Applicant respectfully requests that the Examiner consider the listed document and indicate that it was considered by making appropriate notations on the attached IDS Form PTO/SB/08.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that the listed document is material or constitute "prior art." If the Examiner applies the document as prior art against any claim in the application and Applicant determines that the cited document does not constitute "prior art" under United States law, Applicant reserves the right to present to the U.S. Patent and Trademark Office the relevant facts and law regarding the appropriate status of the document.

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed document should the document be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Supplemental Information Disclosure Statement, please charge the fee to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 8, 2008

By: 

Christopher T. Kent
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